

OLC 75-2396/a
2 October 1975

MEMORANDUM FOR: Special Counsel to the Director

SUBJECT: Possible Rules Violations by House Committee

REFERENCE: Memo for DCI dtd 25 Sep 75, same subject

1. We strongly disagree with the conclusion in the referent memorandum:

a. Section 6a of H. Res. 591 imposes minimal security safeguards upon the select committee to prevent disclosures outside of the committee.

b. The only information relating to CIA activities which may be disclosed outside of the select committee is that which falls under Section 6a(1) and then only as "authorized by the select committee."

c. Section 6a(2) is an absolute bar to disclosure of any information "which would adversely affect the intelligence activities of the Central Intelligence Agency in foreign countries..."

1. No other conclusion is permissible in reading Section 6a(2) in its entirety.

2. No other conclusion is permissible in reading 6a(2) against 6a(1).

Any other reading would render inoperative, superfluous, void and insignificant the introductory words of Section 6a and the phrase authorizing the committee to make disclosures under 6a(1). Such a construction would violate the most elementary rule of statutory construction in which effect must be given to every word clause of a statute.

2. The quandry facing us is that the argumentation reflected in this memorandum has won adherents extensively on the Hill yet apparently it has not been adopted within the Agency although we have done our level best to communicate our thoughts. We are again sending you some short memos written on this subject by this office.

3. We do realize the distinction between the legal and political issues involved in dealing with this matter. But it is conceivable that in the future the issue may once again come alive and at that point our legal position with respect to Section 6a may be of critical importance.

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George L. Cary
GEORGE L. CARY
Legislative Counsel

Attachments



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OLC 75-0623
26 March 1975

MEMORANDUM FOR THE RECORD

SUBJECT: Application of House Rule XI 27(c), now Rule XI 2(e)(2),
to Information Gathered by the House Select Committee
on Intelligence

1. House Rule XI 2(e)(2) provides:

"(2) All committee hearings, records, data, charts, and files shall be kept separate and distinct from the congressional office records of the Member serving as chairman of the committee; and such records shall be the property of the House and all Members of the House shall have access thereto."

2. It is believed that enactment of section 6 of H. Res. 138 (attached) establishing the Select Committee on Intelligence, at a minimum creates a presumption that the House of Representatives has consciously directed and granted authority to the Select Committee necessary to overrule House Rule XI 2(e)(2) to prevent "disclosure, outside the select committee," (e.g., other members of the House of Representatives) of any information relating to CIA and other intelligence activities or which would adversely affect such intelligence activities abroad.



Deputy Legislative Counsel

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Orig - HRes 138 file
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"Sec. 6. (a) The select committee shall institute and carry out such rules and procedures as it may deem necessary to prevent (1) the disclosure, outside the select committee, of any information relating to the activities of the Central Intelligence Agency or any other department or agency of the Federal Government engaged in intelligence activities, obtained by the select committee during the course of its study and investigation, not authorized by the select committee to be disclosed; and (2) the disclosure, outside the select committee, of any information which would adversely affect the intelligence activities of the Central Intelligence Agency in foreign countries or the intelligence activities in foreign countries of any other department or agency of the Federal Government;

"(b) No employee of the select committee or any person engaged by contract or otherwise to perform services for the select committee shall be given access to any classified information by the select committee unless such employee or person has received an appropriate security clearance as determined by the select committee. The type of security clearance to be required in the case of any such employee or person shall, within the determination of the select committee, be commensurate with the sensitivity of the classified information to which such employee or person will be given access by the select committee.

"(c) As a condition for employment as described in section 5 of this resolution, each person shall agree not to accept any honorarium, royalty, or other payment for a speaking engagement, magazine article, book, or other endeavor connected with the investigation and study undertaken by this committee."